

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA | : | |
| | : | 18-cr-00030-PAC-4 |
| - against - | : | |
| | : | <u>ORDER</u> |
| MIRSAD BOGDANOVIC, | : | |
| Defendant. | : | |

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Mirsad Bogdanovic is an inmate at U.S.P. Canaan. He moves *pro se* for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i), on the ground that his health conditions¹ make COVID-19 pose an extraordinary risk to him at his facility. Mot. Compassionate Release 1, 14–17, ECF No. 372. Bogdanovic’s motion is denied without prejudice because it is premature.

Before he may file a motion for compassionate release in federal court, Bogdanovic must must either “fully exhaust[] all administrative rights to appeal [the Bureau of Prisons’ (‘BOP’)] failure to bring a motion on [his] behalf,” or wait for “the lapse of 30 days from the receipt of such a request by the warden of [his] facility, whichever is earlier.” § 3582(c)(1)(A); *see also* Order 2, *United States v. Sprolling*, No. 16-cr-00346 (S.D.N.Y. Mar. 16, 2021), ECF No. 33. Bogdanovic states that he requested relief from his warden, and the warden denied his request. Mot. Compassionate Release 25. But Bogdanovic does not submit any documentation of that request, and the Government states that “the BOP has no record of receiving a compassionate release request from him.” Resp. Opp’n 2, ECF No. 373. Accordingly, Bogdanovic’s motion is premature; his motion for compassionate release can be ripe for a decision from this Court only

¹ The Court accepts Bogdanovic’s medical records, Government Exhibit A, under seal. *See United States v. King*, No. 16-CR-478-11, 2021 WL 736422, at *2 n.1 (S.D.N.Y. Feb. 24, 2021).

after he has requested release from his warden. *See* Order 2, *United States v. Sprolling*; *United States v. Jaquez*, No. 17 Cr. 415, 2021 WL 857364, at *2 n.5 (S.D.N.Y. Mar. 8, 2021); *United States v. Sanders*, No. 17-cr-456, 2020 WL 6273906, at *2 (S.D.N.Y. Oct. 26, 2020)

(“According to the Government, moreover, ‘FCI Hazelton has no record of [the defendant] making a compassionate release request.’ . . . Absent any evidence that [the defendant] pursued that avenue for relief, the Court will not ‘bypass the administrative process and decide the merits of a claim that Congress clearly intended should start, in the first instance, with the BOP.’”) (citations omitted).

The Court makes no factual findings with respect to the grounds Bogdanovic offers to justify compassionate release, nor does it reach any legal conclusions regarding them.

Bogdanovic may renew his motion after he submits a request for compassionate release to his warden in accordance with § 3582(c)(1)(A) and provides the Court with evidence of that request. Bogdanovic may also renew his request for the Court to appoint counsel at that time; for now, his requests are denied without prejudice.

Dated: New York, New York
April 6, 2021

SO ORDERED



HONORABLE PAUL A. CROTTY
United States District Judge